

HOUSE BILL 274
By Maddox

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29
and Title 62, relative to locksmiths.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, is amended by adding Sections 2
through 20 of this act as a new chapter thereto.

SECTION 2. This act shall be known and may be cited as the "Locksmith Licensing Act
of 2003".

SECTION 3. The purpose of this act is to provide uniform procedures and qualifications
throughout Tennessee for licensing and regulation of locksmiths, to protect the public of
Tennessee by prohibiting the unauthorized use of lock picking, safe opening, and car opening
tools by making it illegal for persons convicted of certain crimes to obtain or possess such tools,
and to protect the safety and security of persons and property by assuring that individuals or
companies offering locksmithing services to the general public are competent in locksmithing
services and are trained in applicable regulations and laws such as the Americans With
Disabilities Act, building codes, and life safety codes.

SECTION 4. As used in this act, unless the context otherwise requires:

(1) "Car opening tool" means any tool that is designed by the manufacturer of the
tool or intended by the user to be used to open any vehicle by means other than that
intended by the manufacturer of the vehicle;

(2) "Change key" means a key planed and cut to operate a specific lock or a group of specific locks which all have the same combination of tumblers, pins, or wafers;

(3) "Code book or computer code software" means a compilation, in any form, of key codes;

(4) "Key machine" means any device that is designed to copy or reproduce keys or is designed to make original keys;

(5) "Lock" means any device whose primary function is to prevent or limit movement of one object in relation to another object and requires a tool, device, or special knowledge to activate or deactivate;

(6) "Lock picking tool" means any tool or combination of tools that is designed by the manufacturer of the tool or intended by the user to be used to open a lock by means other than that which is intended by the manufacturer of the lock to be the normal operation of the lock;

(7) "Locksmith" means any natural person who provides locksmithing services for any type of compensation;

(8) "Locksmithing services" means:

(A) Repairing, rebuilding, repining, recombining, servicing, adjusting, or installing any lock; safe, or vault; or

(B) Operating a lock, safe, or vault by means other than those intended by the manufacturer of such lock, safe, or vault;

(9) "Manipulation key" means any key other than a change key or master key that can be variably positioned or manipulated in a keyway to operate a lock. For purposes of this act, the term manipulation key shall also include wiggle keys;

(10) "Master key" means a key planed and cut to operate all locks in a series or group of locks, each lock having its own change key and each lock constructed as an act of the series or group for operation with the master key. For purposes of this act,

submaster keys, grand master keys, great grand master keys, emergency keys, maid's master keys, over-riding keys, or any other similar keys shall be considered as master keys;

(11) "Registered locksmith apprentice" means any natural person, not a locksmith, who must be registered under this act and is hired by any sole proprietorship, partnership, association, or corporation providing locksmithing services; or is associated with a licensed locksmith with or without compensation;

(12) "Safe opening tool" means any tool that is designed by the manufacturer of the tool or intended by the user to be used to open a safe, strongbox, safe deposit box, vault, or similar object by means other than that which is intended by the manufacturer of the safe, strongbox, safe deposit box, vault, or similar object for normal opening; and

(13) "Try-out key" means a manipulation key that may or may not be one, of a set of similar keys, used for a specific series, keyway, or brand of lock.

SECTION 5.

(a) No person, partnership, association, or corporation shall engage in or hold themselves out as engaging in the business of locksmithing in this state without its appropriate employees first being registered or licensed in accordance with this act.

(b) Persons who are not licensed under this act shall not provide any locksmithing services in violation of this act or any rule adopted pursuant to this act.

(c) No locksmith may participate in a joint venture to provide equipment or services that require licensing under this act unless all parties to the joint venture are licensed in accordance with this act.

(d) No locksmith may subcontract the provision of equipment or services requiring a license under this act to any unlicensed person, firm, association, or corporation, except as provided in Section 6.

(e) No locksmith shall employ any employee required to be registered with the board unless the employee is properly registered with the board in compliance with Section 17.

(f) No locksmith shall retain as a registered employee any person known not to be of good moral character.

(g) No person who is not licensed under this act shall possess, use, sell, or offer to sell any code book, lock picking tool, manipulation key, try-out key, safe opening tool, or car opening tool.

(h) No person shall sell, offer to sell, or give to any person not licensed under this act any code book, lock picking tool, manipulation key, try-out key, safe opening tool, or car opening tool.

(i) No person who is not licensed under this act shall design, make, manufacture, or install any master key or any system of change keys and master keys.

(j) No locksmith shall open any vehicle or real property, whether or not a fee is charged, without first obtaining personal identification from the person requesting the service. Such personal identification may include, but is not limited to, personal knowledge, a driver license or other photo identification, address, telephone number, reference from any reliable source, or a description of specific or unusual items that may be found upon entry. Such information shall be recorded on a work order or invoice and shall be made available to a law enforcement officer with a properly executed court order at any reasonable time during normal business hours.

(k) Notwithstanding any provision of law to the contrary, no locksmith licensed under this act shall be prohibited from providing locksmithing services because of the manner of construction or operation of the lock or because of the location of the lock or application of the lock whether the lock is applied to any door, window, hatch, lid, gate, or other opening in or on any safe, vault, building, vehicle, aircraft, or boat. It is the

intent of the general assembly that the provisions of this subsection shall be construed in their broadest possible sense.

SECTION 6.

(a) The following persons, firms, partnerships, associations, or corporations not offering any other locksmithing services are specifically excluded from the requirements of this act:

(1) An individual property owner personally installing locks on such owner's residence or other building not open to the public;

(2) Property owners, or their agent, maintaining a file of key cutting data for a master key system for their property;

(3) Persons, sole proprietorships, partnerships, associations, or corporations having and using key machines and key blanks for their own use;

(4) Retail stores or catalog sales not offering locksmithing services nor selling locksmithing tools;

(5) Locksmith trade publications or equipment manufacturers or distributors not providing direct locksmithing services to the public;

(6) Contractors licensed under Title 62, Chapter 6, providing direct sales or installation of lock hardware but who derive less than twenty-five percent (25%) of their gross annual revenue from such business;

(7) Architects and engineers not providing direct sales, adjustment, or installation of locks;

(8) New car dealers cutting keys by code for the products of their affiliated new car manufacturer or manufacturers;

(9) Tow truck operators opening vehicles for the sole purpose of towing;
and

(10) Federal, state, or local law enforcement agents or fire and rescue personnel performing emergency openings in their official line of duty when a natural person's life is at risk.

(b) Nothing in this act shall prevent any previously licensed locksmith, the agent of an incapacitated locksmith, or the personal representative of the estate of a deceased locksmith from transferring locksmithing tools and supplies by sale or gift to anyone licensed under this act or to anyone exempted from the provisions of this act.

SECTION 7.

(a) There is hereby created a board for licensing locksmiths, hereinafter referred to as the "board". Appointments to the board shall be by the governor. In making appointments to the board, the governor shall strive to ensure that at least one (1) person serving on the board is sixty (60) years of age or older and that at least one (1) person serving on the board is a member of a racial minority. Initial appointments to the board shall be made within ninety (90) days of the effective date of this act and shall list the expiration date of each appointment. All subsequent appointments of successor members shall be made by the governor at the expiration of the respective terms of the members.

(b) The board shall be composed of five (5) members, one (1) of whom shall be a person who is not engaged in the locksmithing or contracting business in this state and who is not a spouse, parent, child, or sibling of a locksmith and who has no direct or indirect financial interest, except as a consumer, in the locksmithing profession.

(c) The remaining members shall be licensed locksmiths as provided in this act. The locksmiths may be appointed from a list of qualified applicants submitted by the professional locksmith associations or professional locksmith organizations in Tennessee that meet regularly and have regularly elected officers. Such organizations or associations shall be notified promptly of any vacancies in the board. No more than

two (2) board members shall reside in the same grand division of the state. At least one (1) locksmith member of the board shall be the owner or employee of a locksmith business with three (3) or fewer locksmiths and registered employees, and at least one (1) member shall be the owner or employee of a locksmith business with three (3) or more locksmiths and registered employees.

(d) Each member of the board shall be at least twenty-five (25) years of age and of good moral character.

(e) Except for initial appointments, and except for the member who is not engaged in the business of locksmithing or contracting, persons appointed to the board shall be licensed locksmiths in the state of Tennessee and actively engaged in the business for not less than four (4) years next preceding their appointment.

(f) The terms of all members shall be for five (5) years and shall be staggered so that the term of at least one (1) member shall expire each December 31. Each member shall hold over after the expiration of such member's term until such member's successor is duly appointed and qualified.

(g) In the event of a vacancy because of death, resignation, or failure of a member to serve such member's full term for any other cause, the same shall be filled by appointment of the governor within ninety (90) days and such member's successor shall serve the balance of the unexpired term.

(h) The governor may remove any member of the board for official misconduct, incompetence, willful neglect of duty, or demonstrated lack of good moral character by conduct that would disqualify an applicant from being licensed under this act.

SECTION 8.

(a) In accordance with the provisions of the Uniform Procedures Act, compiled in Title 4, Chapter 5, the board shall:

(1) Promulgate such rules as may be reasonably necessary to implement and administer the provisions of this act in an efficient and effective manner, including rules to require submission of reports and information by licensees and registrants under this act and promulgate such rules and regulations as it shall deem necessary for internal management and control;

(2) Establish in its bylaws a regular meeting schedule for the purpose of transacting business;

(3) At the first meeting of each calendar year, elect officers, including a chairman, vice chairman, and secretary;

(4) At the call of the chairman or by a majority of the board members, hold special meetings of the board at such times as the board may require;

(5) Establish fees sufficient to pay the annual direct and indirect anticipated expenses of the board including:

(A) A nonrefundable application fee to include the cost of an FBI/TBI background check for licensure;

(B) A nonrefundable fee for licensure;

(C) A biennial licensure renewal fee; and

(D) An identification card replacement fee

provided, the anticipated revenues shall not cause more than twenty-five percent (25%) of the current budget to be carried over at the end of the fiscal year;

(6) Establish categories of licensing such as general locksmithing, safe and vault work, and automotive work that may have different initial qualification and continuing education requirements;

(7) Accept minimum qualifications and establish minimum education, experience, and training standards for applicants for licensure under this act as outlined by the locksmith organizations of Tennessee, which include the Tennessee Organization of

Locksmiths, Tri-State Locksmith Association, Middle Tennessee Locksmith Association, and East Tennessee Locksmith Association.

(8) Investigate and approve applicants to be licensed or registered under this act including a background check conducted by the board and investigation by the Tennessee Bureau of Investigation (TBI) and the Federal Bureau of Investigation (FBI);

(9) Appoint a testing advisory board that shall be responsible for the preparation of a written and practical exam. The testing advisory board shall consist of two (2) licensed locksmiths from each grand division of the state from Tennessee professional locksmith associations or organizations and one (1) licensed locksmith appointed from such organizations from any of the grand divisions.

(10) Promulgate rules to establish the minimum necessary standard for continuing education for each licensing category;

(11) Establish rules for the licensure of students enrolled in locksmithing training programs or courses in this state, whether the training is by a program of classroom instruction, correspondence course(s), or apprenticeship;

(12) Conduct investigations regarding alleged violations and make evaluations as may be necessary to determine if licensees and registrants under this act are complying with the provisions of this act;

(13) Investigate allegations regarding possible violations of this act by unregistered persons and seek enforcement under Section 14;

(14) Investigate credible allegations regarding improper, inadequate, and ineffective lock installations or repair and seek enforcement under Section 14;

(15) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents;

(16) Deny, suspend or revoke any license, licensure, or renewal issued or to be issued under this act to any applicant, registrant, or licensee who fails to satisfy the

requirements of this act or for any of the reasons stated in Section 13 of this act, or failure to observe the terms and conditions of any license, licensure, or renewal, or for failure to follow the rules and bylaws established by the board;

(17) Seek such civil remedies at law or equity to restrain or enjoin any unauthorized practice or other violation of this act; and

(18) Maintain a registry of locksmithing businesses, whether a sole proprietorship, partnership, association, corporation, or any other entity or act thereof offering locksmithing services to the public in the state showing who is employed by such businesses as locksmiths and registered employees and showing any changes in ownership or status of the business.

(b) In the event of a vacancy on the board for any reason and the governor fails to appoint a successor within ninety (90) days after the vacancy occurs, the speaker of the house shall fill that vacancy from a list of nominees submitted by the professional locksmith associations or professional locksmith organizations of the state, until the governor makes an appointment.

SECTION 9.

(a) Three (3) members shall constitute a quorum for transaction of board business.

(b) Notices of each meeting and the time and place thereof shall be given to each member in such manner as the rules and regulations of the board may provide.

(c) Board members shall serve without compensation but shall be entitled to reimbursement for travel expenses, to be paid in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

SECTION 10. The director of the division of regulatory boards in the department of commerce and insurance, or the director's designee, shall serve as executive director and shall provide all administrative functions of the board.

SECTION 11.

(a) The board shall keep a register of all applications for licensure or for a licensee, showing on each the date of application, name, qualifications, place of business, place of residence, and whether a license was granted or refused

(b) The books and register of the board shall be prima facie evidence of all matters recorded therein.

SECTION 12. No license shall be issued under this act unless the applicant files with the board evidence of liability insurance providing for the following minimum coverage:

(1) One hundred thousand dollars (\$100,000) because of bodily injury or death of one (1) person as a result of the negligent act or acts of the principal insured or the principal insured's agents, operating in the scope and course of such agent's employment;

(2) Subject to such limit for one (1) person, three hundred thousand dollars (\$300,000) because of bodily injury or death of two (2) or more persons as the result of the negligent act or acts of the principal insured or the principal insured's agent operating in the course and scope of such agent's employment; and

(3) One hundred thousand dollars (\$100,000) because of injury to or destruction of property as the result of the negligent act or acts of the principal insured or the principal insured's agent operating in the course and scope of such agent's employment.

SECTION 13.

(a) The provisions of the Uniform Administrative Procedures Act, compiled in chapter 4, title 5, shall govern all matters and procedures regarding the hearing and judicial review of any contested case arising under this act.

(b) Any person may present charges in writing to the board against any licensee or registrant or other person, firm, or business offering locksmithing services in violation of this act.

(c) The board may, after notice and an opportunity for hearing, suspend or revoke a license or licensure issued under this act if it is determined that the licensee or registrant has:

(1) Made any false statement or given any false information in connection with any application for licensure or a license or for the renewal or reinstatement of licensure or a license;

(2) Violated any provision of this act;

(3) Violated any rule promulgated by the board pursuant to the authority contained in this act;

(4) Been convicted of any crime that would be grounds for denial of licensing as a locksmith or licensure as a registered employee;

(5) Failed to correct business practices or procedures that resulted in a prior reprimand by the board;

(6) Impersonated, or permitted or aided and abetted any other person, to impersonate a law enforcement officer of the United States, this state, or any of its political subdivisions;

(7) Engaged in, or permitted any employee to engage in, any locksmithing business when not in possession of a valid license under the provisions of this act;

(8) Been found guilty by the board of misconduct, gross negligence and/or incompetence;

(9) Committed any act that is grounds for the denial of an application or a license under this act;

(10) Failed to maintain insurance as required by this act; or

(11) Engaged in, or permitted any employee to engage in, any improper, fraudulent, or dishonest dealing with the public.

SECTION 14.

(a) Any person who engages in or offers to engage in locksmithing services without a license, or who violates the terms and conditions of any licensure or license or renewal thereof granted by the board pursuant to this act, shall be subject to a civil penalty of not more than five thousand dollars (\$5,000) per occurrence.

(b) Any person who engages in or offers to engage in locksmithing services without a license as required by this act shall be ineligible to apply for such license until six (6) months after such violation has occurred.

(c) In addition to revocation or suspension of license, a civil penalty of not more than five thousand dollars (\$5,000), may be assessed by the board against any person who violates any provision of this act, or any rule of the board promulgated pursuant to this act.

(d) In determining the amount of any penalty, the board shall consider the degree and extent of harm caused by the violation.

SECTION 15.

(a) Notwithstanding any other provision of law to the contrary, all moneys collected pursuant to this act shall be deposited in the state treasury in a separate fund to be known as the "fund of the state board of locksmiths".

(b) Disbursements from such fund shall be made solely for the purpose of defraying expenses incurred in the implementation and enforcement of this act.

(c) Any part of the fund of the state board of locksmiths remaining at the end of a fiscal year shall not revert to the general fund, but shall be carried forward until expended in accordance with the provisions of this act.

SECTION 16.

(a) Any person desiring to be licensed as a locksmith shall make written application to the board on such forms as is prescribed by the board. The applicant shall

have a street address and zip code at which a summons may be served, except that a walk-in shop open to the public is not required. The application shall contain details of the applicant's training, experience, and other qualifications relevant to locksmithing. An application fee, as set by the board, shall accompany the application. The application shall be accompanied by the following documents:

- (1) Proof that the applicant is at least eighteen (18) years of age;
- (2) Sets of classifiable fingerprints on standard FBI/TBI application cards;
- (3) Recent color photograph(s) of acceptable quality for identification;
- (4) Proof of a valid business license for each business entity for the

county and city in which the business is located, or proof of employment by an association, corporation, partnership, institution, or government agency exempt from paying privilege taxes under title 67, chapter 4 and a notarized statement that no locksmithing services are being offered directly to the public;

- (5) Proof of insurance as required by Section 12; and

(6) Statements of any criminal records in each area where the applicant has resided. The board may consider rehabilitation of individuals with a criminal record, or records, and may deem certain criminal activities to not prohibit licensure of individuals. Persons convicted of aggravated assault, arson, fraud, larceny, embezzlement, or burglary shall not be entitled to licensure as a locksmith.

(b) The application shall disclose any and all persons, firms, associations, corporations, or other entities that own or control a ten percent (10%) or greater interest in the applicant's business. The board may require FBI/TBI background checks and other information as deemed necessary by the board from any individual, firm, or business owning or controlling ten percent (10%) or greater interest in the applicant's

business and may at the board's discretion withhold licensing until such information is satisfactorily produced and verified.

(c) If the application is satisfactory to the board, the board may examine the applicant to determine such applicant's qualifications. If the results of the examination of the applicant are satisfactory to the board, then the board shall issue to the applicant a license as a locksmith in this state. Included in the documents issued by the board shall be a photo identification card on which the board shall state the locksmith's name, address, and license number, and the expiration date of the license. The photo identification card shall be carried by the locksmith at all times when performing duties as a licensed locksmith and shall be shown upon request. The board shall have the authority to enter into agreements with any state agency for the production or distribution of the photo identification cards.

(d) Licenses as a locksmith shall expire on the last day of the twenty-fourth month following their issuance or renewal, and shall become invalid on such date unless renewed.

(e) It shall be the duty of the board to notify every person licensed under this act of the date of expiration of such person's certificate of license and the fee required for its renewal for two (2) years. Renewal notices shall be mailed to the last known address of the locksmith ninety (90) days prior to the expiration date of the license.

(f) Such renewal must be received in the office of the board thirty (30) days prior to the expiration of the license.

(g) The fee to be paid before the renewal of a certificate of license after the expiration date shall be increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed. The maximum fee for a delayed renewal shall not exceed twice the normal fee.

(h) No licensed locksmith shall be qualified to receive a renewal license when such locksmith has been in default in complying with the provisions of this act for one (1) year, and in such event, the locksmith, in order to qualify under the law, shall make a new application as in the case of the issuance of the original license.

(i) The board shall not grant renewal of a locksmith license until it has received satisfactory evidence of continuing education during the previous year.

SECTION 17.

(a) All locksmith apprentices of any sole proprietorship, partnership, corporation, association, public or private institution, or state agency with access to records, diagrams, key codes, or other sensitive material pertaining to proposed or installed master key systems, any proposed or installed lock, or any safe opening procedure shall be registered with the board.

(b) Any person required to be registered shall make written application to the board on forms prescribed by the board. The application shall disclose the name of the business entity and the names of all locksmiths currently employed by the business entity. The board shall verify that all named locksmiths are properly licensed locksmiths in the state. The application shall contain details of the applicant's training, experience, and other qualifications relevant to locksmithing. An application fee as set by the board shall accompany the application. The application shall also be accompanied by the following documents:

(1) Proof that the applicant is at least sixteen (16) years of age;

(2) A set or sets of classifiable fingerprints on standard FBI/TBI applicant cards;

(3) a recent color photograph or photographs of acceptable quality for identification;

(4) Statements of any criminal records in each area where the applicant has resided. The board may consider rehabilitation of individuals with a criminal record, or records, and may deem certain criminal activities not to prohibit licensure of individuals. Persons convicted of aggravated assault, arson, fraud, larceny, embezzlement, or burglary shall not be entitled to obtain registration as a locksmith apprentice.

(c) If the application is satisfactory to the board, then the board shall issue to the applicant a certificate as a registered apprentice. Included in the documents issued by the board shall be a photo identification card on which the board shall state the registrant's name, address, employer, licensure number, and the expiration date of the licensure. The photo identification card shall be carried by the registrant at all times when performing duties as a registered apprentice and shall be shown upon request.

(d) Certificates of registration shall expire on the last day of the twenty-fourth month following their issuance or renewal, and shall become invalid on such date unless renewed.

(e) It shall be the duty of the board to notify every person registered under this act by mail of the date of expiration of such person's certificate of registration and the amount of fee required for its renewal for two (2) years. Renewal notices shall be mailed to the last known address of the registrant ninety (90) days prior to the expiration date of the certificate.

(f) Such renewal must be received in the office of the board thirty (30) days prior to the expiration of such certificate.

(g) The fee to be paid before the renewal of a certificate of registration after the expiration date shall be increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed; provided that the maximum fee for a delayed renewal shall not exceed twice the normal fee.

(h) No registered employee shall be qualified to receive a renewal certificate when such registrant has been in default in complying with the provision of this act for a period of one (1) year, and in such event, the registrant, in order to qualify, shall make a new application as in the case of the issuance of the original certificate of registration.

SECTION 18.

(a) Effective January 1, 2004, state agencies, counties and municipalities are prohibited from offering locksmithing services to the general public whether or not a fee is charged.

(b) Effective January 1, 2004, no county or municipality shall enact any legislation or promulgate any rules or regulations relating to the licensing of locksmiths required to be licensed under this act.

(c) On January 1, 2004, any resolution, ordinance, law, or rules or regulations of any county or municipality requiring the certifying or licensing of a locksmith, locksmith business or its employees shall be superseded by this act and shall no longer be effective.

(d) The provisions of this act are not intended and do not prevent the legally constituted authority of any county or municipality by legislation, rules, or regulations, and within the police power of such county or municipality, from requiring locksmith businesses or licensed locksmiths to register their names, addresses, and license certificate numbers with the county or municipality within which they operate. Such county or municipality may also require that locksmith businesses give reasonable notice of termination of licenses of registered employees. No fee may be charged, nor any application be required, by any county or municipality for such licensure.

SECTION 19.

(a) The board is authorized to grant licenses to locksmiths whose place of business is in one of the states bordering Tennessee, provided:

(1) Such state requires regulation of locksmith businesses substantially equal to this act, including a mandatory FBI and state police background check;

(2) Such state reciprocates by granting the same privilege to do business in such state to locksmiths licensed under this act; and

(3) Such business pays appropriate sales and use taxes to the state of Tennessee.

(b) The board shall have the authority to set and collect fees for the preparation of a photo identification card for each locksmith working in this state licensed under this act.

SECTION 20.

(a) To allow initial implementation of this act without interruption of existing services by locksmiths, licensure shall not be required under this act prior to December 31, 2003. During this initial period, the board shall:

(1) Provide the necessary forms and procedures for licensure and licenses;

(2) Receive and process all applications for initial licensure and licenses; and

(3) Issue certificates of licensures and licenses to initial applicants meeting the requirements of this act.

(b) Any locksmith making application prior to December 31, 2003, shall be granted a license that shall be subject to subsections 16(d) through 16(i), provided that such applicant:

(1) Meets the requirements of subsection 16(a);

(2) Meets the requirements of subsection 16(b); and

- (3) Demonstrates to the satisfaction of the board not less than two
- (2) years experience in the locksmithing business, or an equivalent amount of certified education or apprenticeship.

SECTION 21. Tennessee Code Annotated, Section 4-29-226(a), is amended by adding a new item thereto, as follows:

- () Board for licensing locksmiths, created by Section 7 of this act;

SECTION 22. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 23. For the purpose of promulgating rules and regulations and for appointing members to the board, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2004, the public welfare requiring it.